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May 2, 2019

The Honorable Raymond J. Dearie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Gigliotti, Dkt. No. 15-CR-204 (RJD)

Dear Judge Dearie:

This letter is to alert the Court to a significant development relating to the pending Rule 33 Motion in the above-referenced case, specifically that the convictions in the related Italian prosecution, in which Angelo Gigliotti and his family were initially named, was recently reversed on appeal.

As the Court is aware, the proceedings in the Eastern District of New York have been closely related from the outset to an investigation and prosecution in Reggio Calabria in which Special Agent LaMarca of the Department of Homeland Security and Inspector Giampietro Muroi of the Italian National Police were important participants and ultimately trial witnesses. Late last week, I learned that the Court of Appeal of Reggio Calabria had reversed the decision and ordered all defendants released pending a new trial. A Google search revealed two Italian-language news stories, both dated April 4, 2019, discussing the case:

1) <http://www.lametino.it/Cronaca/operazione-columbus-annullata-sentenza-scarcerato-anche-ex-candidato-consigliere-lamezia-franco-fazio.html>; and

2) <https://calabria.gazzettadelsud.it/articoli/cronaca/2019/04/04/droga-fra-la-calabria-e-gli-stati-uniti-annullata-la-sentenza-scarcerati-5-presunti-narcos-95dc365b-3312-4d08-baa3-232abc38fc58/>.

The news stories provide little if any detail as to the legal or factual circumstances surrounding the decision to

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reverse the convictions. A translation of the articles using Google Translate indicates the following:

Reggio Calabria - The first instance sentence of the "Columbus" operation was canceled and all the defendants were released. This is what was decided yesterday April 3 by the Court of Appeal of Reggio Calabria accepting the appeal of Cosimo Berlingeri, Basilio Caparrotta, Domenico Berlingeri, Pino Fazio, Franco Fazio, returned free. Franco Fazio, in particular, 49-year-old from Pianopoli, in the last municipal elections in Lamezia in 2015 was a candidate in the ranks of the CDU in support of the former mayor Paolo Mascaro, and was sentenced to 17 years and 10 months. His arrest had risen to the headlines because he was involved in an international drug trafficking tour brought to light on the eve of the 2015 administrative elections.

The "Columbus" operation, taken in May of the same year, involved about fifteen people, including five Lametins, arrested and arrested between Calabria and New York as part of the investigation by the State Police and the FBI on a criminal organization linked to the 'Ndrangheta and the American mafia families.

The Court of Appeal yesterday annulled the first instance sentence issued by the Palmi court. To defend the defendants, the panel composed of the lawyers Viscomi, Miceli, Guerriero, Contestabile, Marchese and Larussa. (Lametino article at 1)

The other article provides scarcely more detail, stating only as follows:

The Court of Appeal of Reggio Calabria has annulled the sentence with which the Court of Palmi had condemned 5 alleged narcos, "business partners" of the Calabrian picciotti transplanted in Queens of New York.

A decision that automatically entails the immediate release of the defendants if not held for another cause. At the bar Cosimo Berlingeri of

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Oppido Mamertina and Basilio Caparrotta of Sant'Onofrio, who had been sentenced to 8 years and 3 months in prison; Domenico Berlingeri of Lamezia Terme (9 years), Franco Fazio of Pianopoli (17 years and 10 months) and Pino Fazio of Lamezia Terme (2 years).

According to the sentence, the judges of Piazza Castello have accepted the appeal presented by the 5 defendants convicted on December 13, 2017, declaring "the incompetence by territory of the Court of Palmi" and ordering the transmission of the documents to the public prosecutor of Catanzaro so that start a new procedure. Everything to be redone, then. (Calabria article at 1)

As of this writing, I have endeavored to get further details from the attorneys in the Italian case regarding the basis for the reversal of the convictions. This revelation likely will impact the pending Rule 33 motion and the related criminal case as a whole, since Angelo Gigliotti has relied heavily on the facts surrounding the Italian investigation and prosecution in his Rule 33 motion, particularly with respect to the relationship between the American and Italian officials at the start of the investigation. If the reversal arose from the joint investigation with United States officials or the wiretapping in particular, such disclosure could be dispositive with respect to the Rule 33 motion, since it would support a motion to suppress the wiretapping evidence in this case. Under any circumstances, the reversal of the convictions in Italy will provide counsel in both cases with a chance to coordinate regarding what has now been revealed to have been prosecutions based on essentially the same overall investigation.

We will notify the Court immediately as soon as we receive any further details regarding this important development. Please let me know if the Court requires any additional information.

Very truly yours,
/s/
Brendan White
Attorney for Angelo Gigliotti

encl.
cc: Margaret Gandy, AUSA